

**247a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-5533-2019

Date of Decision: 18.08.2023

Ram Bhagat

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Sumit Sangwan, Advocate, for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Mr. Ranvir S.Chauhan, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 22.05.2014 (Annexure P-1) passed by the Collector, Bhiwani, order dated 04.08.2014 (Annexure P-2) passed by Commissioner, Hisar Division, Hisar and order dated 07.08.2017 (Annexure P-3), passed by the Financial Commissioner.

Learned counsel for the petitioner has submitted that on the death of Ramanand, earlier Lambardar of village Lamba, District Bhiwani, process for the appointment of new Lambardar (SC category) was initiated and thus, the Naib Tehsildar announced the same. He submits that *Mushtari Munadi* was conducted through Patwari Halqua and in pursuance to the same, five applications of Satya Parkash, Ram Bhagat (petitioner), Hazari Lal, Pyare Lal (respondent No.4) and Sanjay Kumar were received. Their character verification was conducted and opportunities were afforded to all the applicants to produce their evidence in support of their claim for the post. He submits that during the proceedings Satya Parkash withdrew his candidature in favour of Ram Bhagat (petitioner), whereas, Sanjay and Hazari Lal withdrew their candidature in favour of Pyare Lal (respondent

No.4) and thus, only two candidates i.e. Pyare Lal (respondent No.4) and Ram Bhagat (petitioner) remained in fray for the consideration of post of Lambardar. He submits that the petitioner was 38 years of age, matriculate having 2 kanals of land in the village and he was son of the deceased Lambardar and besides this, he was a social worker also. He submits that on the other hand respondent No.4 was 41 years of age. He has submitted that though the petitioner was prosecuted in an FIR No.126 dated 21.07.1997, registered under Section 304-B/498-A/406 IPC, at Police Station Bond Kalan, but he was duly acquitted on 17.02.1998. He submits that however, the Collector without appreciating these facts on record, appointed respondent No.4 as Lambardar of the village vide order dated 02.07.2013. He has submitted that thereafter, petitioner filed a review petition dated 05.07.2013 before the learned Collector on the grounds that though he was prosecuted in an FIR, but he was duly acquitted on 17.02.1998 and respondent No.4 was in unauthorized possession of Gram Panchayat land. He submits that though the Collector, who had appointed respondent No.4 as Lambardar of the village vide order dated 02.07.2013 reviewed his decision in the review petition filed by the petitioner, but failed to appoint the petitioner as Lambardar of the village and thus, set aside the same by directing fresh *Munadi* to be conducted by inviting the names of the suitable candidates vide order dated 22.05.2014 (Annexure P-1). He has submitted that the petitioner being aggrieved filed an appeal before the learned Commissioner, Hisar Division, Hisar, however, the learned Commissioner failed to appreciate the contentions raised by the petitioner and the law settled and thus, rejected the appeal filed vide impugned order dated 04.08.2014 (Annexure P-2). He submits that aggrieved by orders dated

04.08.2014, 22.05.2014 and 22.04.2015, the petitioner and respondent No.4 filed their separate revisions before the Financial Commissioner. He submits that the learned Financial Commissioner also failed to appreciate the facts and circumstances of the case and the law settled and thus, illegally rejected the same vide impugned order dated 07.08.2017 (Annexure P-3). It has been further contended that all the respondent-authorities have failed to appreciate the facts and appointed the petitioner as Lambardar of the village. He has submitted that admittedly the petitioner was younger in age than respondent No.1 and his forefathers were Lambardar of the village. He submits that respondent No.4 was found to be in unauthorized possession of the land and thus, he was totally ineligible for the appointment. He has submitted that the Collector though has accepted the review petition filed by the petitioner, however, he has fallen in error in not appointing him as Lambardar and thus, has illegally directed for initiation of process afresh for the appointment of Lambardar by holding fresh *Munadi*. He submits that the learned Commissioner has also fallen in error in rejecting his appeal similarly learned Financial Commissioner has also illegally rejected his revision. He submits that the petitioner being more suitable candidate should be appointed as Lambardar of the village and thus, the impugned orders being unsustainable in the eyes of law, deserve to be dismissed.

Learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that respondent No.4 was rightly appointed by the Collector, however, on the review petition filed by the petitioner, the learned Collector illegally directed for initiating process afresh for the appointment of Lambardar by holding fresh *Munadi*. He submits that though the petitioner was younger in

age than respondent No.4, but respondent No.4 was more educated than him. He submits that petitioner was prosecuted in an FIR, whereas, respondent No.4 has no criminal background. He has submitted that learned Commissioner has also fallen in error in rejecting his appeal similarly learned Financial Commissioner has also illegally rejected his revision filed. He submits that respondent No.4 being more suitable candidate should be appointed as Lambardar of the village by dismissing the petition filed by the petitioner.

Heard.

After hearing learned counsel for the parties and perusing the record, it is is apparent that the process for appointment of Lambardar (SC category) was initiated after the death of earlier Lambardar of the Village. Resultantly, *Mushtri Munadi* was conducted and applications were invited. Five candidates applied for the post, however, finally Pyare Lal (respondent No.4) and Ram Bhagat (petitioner) remained in fray. Their character verification was conducted and on the analysis of their inter-se merits, respondent No.4 was found to be more suitable candidate and thus, he was appointed as Lambardar of the village by the learned Collector vide order dated 02.07.2013. However, on the review petition filed by the petitioner, new grounds were brought to the notice of the Collector and thus, to meet the ends of justice, learned Collector reviewed his decision by directing to initiate process afresh by holding fresh *Munadi*, which would enable other meritorious candidates also to apply for the post, vide order dated 22.05.2014. In the appeal filed by the petitioner, the same was found to be without any merit by the learned Commissioner. Respondent No.4 also filed appeal which was also declined by upholding the decision of the Collector.

Both the petitioner and respondent No.4 filed their independent revision petitions assailing the orders of the Commissioner before the learned Financial Commissioner, however, no infirmity was found by the Financial Commissioner in the decision taken by the learned Collector of holding the process afresh. It is evident that on hearing the parties and appreciating the record, earlier decision taken by the learned Collector for appointment of respondent No.3 as Lambardar was not found to be in the interest of justice, hence, fresh *Munadi* was directed to be conducted by initiating the procedure afresh. Petitioner was found to have been prosecuted in FIR No.126 dated 21.07.1997, registered under Section 304-B/498-A/406, at Police Station Bond Kalan. So far as respondent No.4 is concerned, allegations were made regarding his being in unauthorized possession and thus, all the authorities gave concurrent findings that initiating process afresh by conducting fresh *Munadi* would meet ends of justice. In the considered opinion of this Court, the impugned orders suffers from no perversity and thus, liable to be upheld. Thus, the present petition being devoid of any merit is hereby dismissed.

Keeping in view the facts and circumstances of the case, the Collector is directed to initiate the proceedings for the appointment of Lambardar afresh and conclude the same within a period of three months from the date of receipt of certified copy of this order.

18.08.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No